

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HENRY PETERS, ET AL.,

Plaintiffs,

V.

ROLAND DAVID, ET AL.,

Defendants.

Civil Action No. 07-2210(KSH)

ORDER ON INFORMAL APPLICATION

This matter having come before the Court for an in-person conference on January 22, 2010 to coordinate the proceedings in the above-captioned matters;

and the Court having considered the claims and parties who are part of Civil No. 09-3774, the record of proceedings, and the arguments and representations of the parties;

and for the reasons discussed on the record on January 22, 2010;

and for good cause shown,

IT IS ON THIS 22nd day of January, 2010

ORDERED that the RICO claim and the claim for intentional infliction of emotional distress set forth in the Complaint filed in Civil No. 09-3774 are deemed withdrawn;

IT IS FURTHER ORDERED that the request for the entry of default against parties in Civ. No. 09-3774 is deemed withdrawn;

IT IS FURTHER ORDERED that the David defendants' request to vacate the entry of default filed in Civ. No. 09- 3774(KSH) is granted and the Answer attached to the motion shall

be deemed filed;

IT IS FURTHER ORDERED that the motion to dismiss pending in Civ. No. 09-3774 is terminated as a the motion for summary judgment shall be filed in lieu of the motion to dismiss;

IT IS FURTHER ORDERED that the motions for summary judgment on the claims preserved in the Final Pretrial Order filed in 07-2210 and the two additional claims set forth in the Complaint filed in Civil No. 09-3774, namely the claims of intentional misrepresentation and conversion, shall be filed no later than **February 19, 2010**. Any opposition shall be submitted no later than **March 22, 2010** and the reply shall be submitted no later than **March 29, 2010**. No extensions will be granted. The return date shall be **April 5, 2010** before the Hon. Katharine S. Hayden. Her Honor's Chambers will advise the parties if oral argument will be required;

IT IS FURTHER ORDERED that if the claim of intentional misrepresentation and/or conversion claim survive summary judgment, then the surviving claim(s) shall be deemed to be legal issues preserved in the Final Pretrial Order entered in Civ. No. 07-2210;

IT IS FURTHER ORDERED that the plaintiff shall ensure that the Clerk of the Court has the proper addresses for the parties appearing pro se in Civ. No. 09- 3774;

IT IS FURTHER ORDERED that, no later than **February 12, 2010**, the plaintiff shall file proof of service of the discovery served upon defendants Zagoric, Raggi, and Lazaro;

IT IS FURTHER ORDERED that, no later than **February 12, 2010**, defendants Zagoric, Raggi, and Lazaro shall file responses to the discovery that had been served upon them. If they fail to provide responses, then no later than **February 19, 2010**, the plaintiff shall submit a letter requesting that the Court issue an Order directing the defendant(s) who did not respond to show cause why sanctions should not be imposed, including a recommendation to the United States District Judge that the defendant(s) Answer(s) be struck, default be entered and leave be granted

to the plaintiff to file a motion for default judgment, pursuant to Fed. R. Civ. P. 16 and/or 37, for failing to provide responses to discovery; and

IT IS FURTHER ORDERED that the plaintiff shall serve a copy of this Order upon defendants Zagoric, Raggi, and Lazaro by regular mail and certified mail/return receipt requested and file proof of service with the Clerk of the Court.

s/Patty Shwartz
UNITED STATES MAGISTRATE JUDGE